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11 Attorneys for Defendant FACEBOOK, INC.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 BLUE SPIKE, LLC,
16 Plaintiff,
17 v.
18 FACEBOOK, INC.
19 Defendant.

Case No. 3:15-cv-4185-JSC

**NOTICE OF PENDENCY
OF OTHER ACTIONS INVOLVING
SAME PATENTS PURSUANT TO
PATENT L.R. 2-1(A)**

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23 Defendant Facebook, Inc. submits this Notice of Pendency of Other Actions Involving
24 Same Patents pursuant to Patent L.R. 2-1(a) and respectfully requests reassignment of this case to
25 Judge Yvonne Gonzalez Rogers.
26

27 Under Patent Local Rule 2-1(a)(1), actions concerning the same patent that are filed by the
28 same plaintiff within two years of each other are considered related. *Blue Spike, LLC v.*

1 *Gracenote, Inc.*, Case No. 15-cv-01494-YGR, is pending in this District before Judge Gonzalez
 2 Rogers. It was filed by the same plaintiff, Blue Spike, LLC, and concerns the same five patents
 3 that are at issue in the action against Facebook. *See* Patent L.R. 2-1(a)(1). Moreover, the actions
 4 were filed within two years of each other. Blue Spike filed the *Gracenote* case on July 7, 2014.
 5 Five-and-a-half months later, Blue Spike filed this case against Facebook on December 22, 2014,
 6 in the Eastern District of Texas. This case was recently transferred to the Northern District of
 7 California on September 15, 2015. *Blue Spike, LLC v. Facebook, Inc.*, Case No. 3:15-cv-4185-
 8 JSC. Under Patent L.R. 2-1(a)(3), this case (which has the higher docket number) should be
 9 assigned to Judge Gonzalez Rogers who presides over the *Gracenote* case (which has the lower
 10 docket number).

11 Additionally, Blue Spike has another case pending in this district against Google, Inc.
 12 The *Google* case is also currently assigned to Judge Gonzalez Rogers. It involves the same five
 13 patents that are also at issue in Blue Spike's case against Facebook. The *Google* case was
 14 originally filed on August 22, 2012 in the Eastern District of Texas. It was then transferred to the
 15 Northern District of California on April 10, 2014. *Blue Spike, LLC v. Google, Inc.*, Case No. 14-
 16 cv-01650-YGR. Although the *Google* case was filed more than two years before Blue Spike filed
 17 its currently operative complaint against Facebook, Case No. 6:14-cv-987 (E.D. Tex.), the *Google*
 18 case concerns issues of validity and claim interpretation that will be overlapping with those
 19 litigated in this lawsuit. Moreover, the *Google* case was filed within days of Blue Spike's
 20 original lawsuit against Facebook, which was filed on August 27, 2012, in the Eastern District of
 21 Texas, Case No. 6:12-cv-576. The Texas court recommended dismissing Blue Spike's originally
 22 filed complaint against Facebook for improper joinder on December 22, 2014. Blue Spike filed
 23 the current lawsuit on December 22, 2014 to correct the pleading deficiencies that resulted in the
 24 dismissal of its original lawsuit against Facebook.¹

25
 26 ¹ The case against *Google* would also be considered related to this case under the requirements of
 27 Civil Local Rule 3-12 because it concerns the same plaintiff, Blue Spike, LLC. Additionally,
 28 both cases concern the same property—namely, the same five Blue Spike patents asserted in both
 cases. *See* Civil L.R. 3-12(a). Given the common issues of patent validity and claim
 interpretation that are likely to be overlapping in the cases, having the cases proceed before

The *Gracenote* and *Google* cases involve the same patents and plaintiff and both lawsuits are pending before Judge Gonzalez Rogers. The *Gracenote* case meets all the requirements of Patent L.R. 2-1(a)(1). The *Google* case also satisfies all of the requirements of Patent L.R. 2-1(a)(1) except for the “filed within two years” requirement, and that element also would be met but for the fact that Blue Spike filed a new lawsuit against Facebook to correct pleading deficiencies that resulted in the dismissal of its original lawsuit against Facebook.

In light of the fact that Judge Gonzalez Rogers is presently adjudicating both the *Gracenote* and *Google* cases, which involve the same five patents and plaintiff as in this lawsuit, Facebook respectfully requests reassignment of this case to Judge Gonzalez Rogers.

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different judges would likely result in “an unduly burdensome duplication of labor and expense or conflicting results.” *Id.*